



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0187/19
2	Advertiser	Woolworths Supermarkets
3	Product	Alcohol
4	Type of Advertisement / media	Email
5	Date of Determination	26/06/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.6 - Health and Safety Depiction of smoking/drinking/gambling
- 2.6 - Health and Safety Unsafe behaviour

DESCRIPTION OF THE ADVERTISEMENT

This email advertisement features an offer of a \$10 discount if spending \$115 on beer in any one transaction.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

Email for alcohol where consumer is incentivised to spend an excessive amount of money in one transaction on beer (\$115) to save \$10. This is not a responsible promotion as it leads to a large quantity of alcohol purchased in a single occasion. Furthermore the timing of the email in this case is the Thursday before a long weekend, a time of increased alcohol use and related harms.

Complaint raised as per below:

Concerns raised about situations or suggestions encouraging the excess or unsafe consumption of alcohol are considered by the Ad Standards Community Panel under Section 2.6 of the AANA Code of Ethics.



THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

The Advertisement was an email sent to selected members of the Woolworths Rewards program containing a \$10 discount offer if the Rewards member activates the offer online and spends \$115 or more on products in the beer category, in one transaction, either online at bws.com.au or in a BWS store (the "Promotion"). The Promotion was available for 13 days from 29 May to 10 June 2019 (the "Promotion Period"), and was limited to one redemption per selected Rewards member. The Advertisement was a reminder email, sent in the final few days of the Promotion Period only to members who had not yet activated and redeemed the Promotion; all selected members would have received an email about the Promotion, on or around the start of the Promotion Period, first introducing the Promotion. The Advertisement included a detailed section titled 'Offer Terms and Conditions', and also included BWS' responsible service of alcohol ("RSA") information. We set out below our comments in respect of the specific Codes.

AANA Code of Ethics

We submit that the Advertisement does not breach this Code. Further, we believe the Advertisement to be aligned with the objectives of the Code - legal, decent, honest and truthful and prepared with a sense of obligation to the consumer and society and a sense of fairness and responsibility to competitors.

2.1 - Discrimination or vilification

We submit that the Advertisement does not breach this section of the Code.

2.2 - Exploitative or degrading

We submit that the Advertisement does not breach this section of the Code.

2.3 – Violence

We submit that the Advertisement does not breach this section of the Code.

2.4 - Sex, sexuality and nudity

We submit that the Advertisement does not breach this section of the Code.

2.5 – Language

We submit that the Advertisement does not breach this section of the Code.

2.6 - Health and Safety

We submit that the Advertisement does not breach this section of the Code on the



basis that it does not depict material contrary to the Prevailing Community Standards on health and safety. Your letter indicates that the Complaint raises concerns about “situations or suggestions encouraging the excess or unsafe consumption of alcohol”.

In response to this we submit the following:

- Endeavour Drinks, which includes BWS, aims to be Australia’s most responsible retailer of alcoholic drinks. Endeavour Drinks has been a signatory to the Alcohol Beverages Advertising Code (“ABAC”) Scheme since 2013 and has had a long-standing commitment to supporting and adhering to ABAC. As part of its community charter, ‘Our Community, Our Commitment’, Endeavour Drinks has a strong culture of RSA practices and has in place a range of industry-leading initiatives to encourage responsible drinking practices. These include: our ‘Intoxication Policy’ (refusal of service to anyone who may be intoxicated); and, staff training that exceeds legal requirements, including “Don’t Guess, Just Ask”, team talkers, regular refresher and reminder courses, and implementation of the award-winning training program “Safe”.*
- BWS is an off-premises or takeaway retailer. As such, the alcohol purchased from BWS is purchased for consumption at a later time and at other locations (as permitted by law), at the discretion of the purchaser. Alcohol is a product with a relatively long shelf life and can be stored for months or in the case of wine and spirits, for years, prior to its consumption. We believe that consumers care about value and a common reason to buy a greater volume of alcohol in a single transaction is to realise that value. In light of the above, we submit that it does not follow that a greater volume of alcohol purchased results in excessive or unsafe consumption.*
- The reference in the Advertisement to the “long weekend” and “hurry” were included due to the timing and purpose of the Advertisement. The Advertisement was sent before the start of the long weekend and the Promotion Period was due to end at the end of the long weekend. As noted earlier, the Advertisement was only sent to Rewards members who, as at the time the email-generation occurred, had not yet activated the Promotion for redemption. The Advertisement was simply a reminder for the relevant members to activate and redeem the Promotion just before or during the long weekend, before the Promotion Period ended - again, this related to the purchase of alcohol only - there was no suggestion or encouragement to consume alcohol purchased, let alone do so during the long weekend.*
- It is important to reiterate that the Advertisement does not depict or suggest any consumption of alcohol, it only suggests the purchase of alcohol.*
- The Promotion offers a discount of \$10 when \$115 or more is spent in one transaction which means the maximum discount percentage available to the selected members who received the Advertisement was 8.7%. We submit that a discount of 8.7% is not excessive, and would not encourage excessive or unsafe consumption of alcohol. We note that the general guidance from applicable State and Territory liquor regulators is that discounts should not be excessive (in some jurisdictions it is suggested that caution should be exercised when discounts exceed 50%) and that in promoting alcohol, harm minimisation measures, relative to the promotion, should be in place.*



- Endeavour Drinks is committed to ensuring that all its promotions have harm minimisation measures in place, to minimise the occurrence of irresponsible or excessive alcohol consumption. The Advertisement and Promotion had the following measures in place, which we submit were appropriate and sufficient given the nature, audience and extent of the Advertisement and Promotion:

~ I am instructed that:

the Promotion was only available for a limited period of 13 days;

the Promotion was limited to only one redemption per Rewards member;

the Advertisement and Promotion was only sent to selected Rewards members who had purchased beer products from BWS in the previous 6 months (ie it was not promoted to persons who had not purchased beer or not purchased from BWS recently); and

the Advertisement and Promotion was not sent to Rewards members who live in, and was not otherwise available in, locations that are subject to liquor restrictions such as dry zones;

~ if the Promotion was used and beer purchased as a result, that purchase of beer in-store or online via delivery would be subject to Endeavour Drinks' strict RSA practices, which includes the refusal of service to intoxicated persons; and

~ the Advertisement included Endeavour Drinks' ID25 logo which also references the Endeavour Drinks' community charter 'Our Community, Our Commitment'.

- The minimum spend requirement of the Promotion was \$115. I am instructed this minimum spend amount was based on the historical average amount spent by the selected members on beer in a single transaction.

- On the whole, the Advertisement reflects a moderate and responsible approach to alcohol, which is in line with Prevailing Community Standards.

- For completeness, we submit that the Advertisement and Promotion do not breach any of Australia's applicable liquor-related laws and regulations, or the ABAC Code (which is addressed further below).

2.7 - Distinguishable as advertising

We submit that the Advertisement does not breach this section of the Code.

AANA Code for Advertising and Marketing Communications to Children

We submit that this Code is not applicable to the Advertisement as it was only sent to selected Rewards members who are over the age of 18.

AANA Food and Beverages Marketing and Communications Code

We submit that this Code is not applicable to the Advertisement as it does not apply to alcoholic beverages.

AANA Code of Ethics - other

We submit that the Advertisement does not breach any other sections of the Code.



Other Codes administered by Ad Standards

We submit that the Advertisement does not breach any other Codes administered by Ad Standards.

Related Codes - ABAC Responsible Alcohol Marketing Code

We submit that the Advertisement does not breach the ABAC Code including the Placement Rules of the ABAC Code. In particular, we submit that the Advertisement does not:

- show or encourage the excessive or rapid consumption of alcohol, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines;*
- show or encourage irresponsible or offensive behaviour that is related to the consumption or presence of alcohol;*
- challenge or dare people to consume alcohol; or*
- encourage the choice of a particular alcohol product by emphasising its alcohol strength or the intoxicating effect of alcohol.*

As addressed above in relation to section 2.6 of the AANA Code of Ethics, we submit that the Advertisement and Promotion did not in any way show or encourage excessive or rapid consumption of alcohol, and the Promotion, whilst not excessive, had harm minimisation measures in place appropriate for the Promotion.

In light of the above, we submit that the Complaint should be dismissed on the basis that it does not breach any of the applicable Codes.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement contained material which went against prevailing community standards on health and safety.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel noted that this email advertisement features an offer of a \$10 discount if spending \$115 on beer in any one transaction.

The Panel considered whether the advertisement was in breach of Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".



The Panel noted the complainant's concern that the advertisement is not a responsible promotion as it leads to a large quantity of alcohol purchased in a single occasion.

The Panel considered that the concept of bulk buying is not new, and an individual choosing to bulk buy alcohol while it is on sale is not encouraging excess consumption or an indication of excess consumption.

The Panel considered that the promotion being advertised prior to a long weekend is not irresponsible, as many people host gatherings during a long weekend and supply drinks for guests, and therefore buying alcohol in bulk is not unusual.

The Panel noted the advertiser's response that the value of \$115 was based on the historical average amount spent by Woolworths Rewards members on beer in a single transaction.

The Panel considered that for some types of beer, a single case can be upwards of \$100. The Panel considered that the advertisement does not advertise purchasing or consuming a defined number of beverages.

The Panel considered that most members of the community would not consider this advertisement to be promoting or encouraging excess consumption of alcohol.

The Panel considered that the advertisement did not depict material contrary to prevailing community standards on health and safety and did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.

